

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JENNIFER VIRDEN, §
Plaintiff, §
§
§ Civil Case No. 1:21-cv-00271-RP
v. §
§
CITY OF AUSTIN, TEXAS, §
Defendant. §

PROPOSED ORDER

Upon consideration of the Plaintiff's Motion for Preliminary Injunction, and the arguments and evidence presented at the hearing, if any,

The Court is of the opinion that Plaintiff is likely to succeed on the merits of her claims that her right to free speech and association, as well as the rights of her supporters, protected by the First and Fourteenth Amendments to the United States Constitution, are violated by the operation of the blackout period challenged in the motion for preliminary injunction.

Section 2-2-7(G) of the Austin Code of Ordinances (as well as Charter article III, § 8(F)(4) and Code § 2-2-7(E), to the extent those provisions also prohibit fundraising for an upcoming election before the defined authorized campaign period) severely restrict core political speech and association, yet fail to advance the only legitimate governmental interest in this area, the prevention of *quid pro quo* corruption or its appearance. The provisions are also not appropriately tailored as required under constitutional scrutiny.

“[T]he loss of First Amendment freedoms for even minimal periods of time constitutes irreparable injury justifying the grant of a preliminary injunction.” *Texans*

for Free Enter. v. Tex. Ethics Com'n, 732 F.3d 535, 539 (5th Cir. 2013). The Government articulates no harm that it will suffer if the provision is enjoined. Moreover, “injunctions protecting First Amendment freedoms are always in the public interest.” *Id.* Consequently,

IT IS HEREBY ORDERED that the Motion is granted; and it is

FURTHER ORDERED that Defendant City of Austin, Texas, and its agents, servants, employees, any other persons acting under color of its authority and any other persons or entities in active concert or participation with Defendant, are preliminarily enjoined from enforcing the following provisions of the City of Austin charter and code of ordinances, because the Court finds that Plaintiff is likely to succeed on the merits of her claims that such provisions violate the freedom of speech and association guaranteed by the First and Fourteenth Amendments to the United States Constitution:

1. Code of Ordinances § 2-2-7(G)
2. Code of Ordinances § 2-2-7(E) and Charter article III, § 8(F)(4), to the extent those two provisions would similarly prohibit a City candidate from raising funds for an upcoming election before the authorized campaign period.

SO ORDERED this _____ day of _____ 2021.

UNITED STATES DISTRICT JUDGE